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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

CAMERON PARK, individually, and  
on behalf of all others similarly situated,

Plaintiff,

v.

ZUFFA, LLC, UFC HOLDINGS LLC,  
NEULION, INC., and, DOES 1-100,  
inclusive,

Defendants.

Case No.

**CLASS ACTION COMPLAINT**

**(Jury Trial Demanded)**

Cameron Park ("Plaintiff"), by and through undersigned counsel, on behalf of himself and all others similarly situated, brings the following Class Action Complaint against ZUFFA, LLC, UFC HOLDINGS, LLC, and NEULION, INC. (collectively "Defendants"), based upon information as belief and the investigation of counsel, except for information based on personal knowledge, and hereby alleges as follows:

## PREAMBLE

1. The August 26, 2017 boxing match between Floyd Mayweather (“Mayweather”) and Conor McGregor (“McGregor”) was billed to the American public (and worldwide) as one of the biggest prize fights ever and dubbed by the media and others as “The Money Fight” and “The Biggest Fight in Combat Sports History” (hereinafter the “Fight”). The Fight was unique as, for the first time, it pitted a boxing champion (Mayweather), against an ultimate fighting/mixed martial arts champion (McGregor), adding significant intrigue and hype to the sporting event. The Fight, ultimately won by Mayweather with a technical knockout in the 10th round, is believed to have been one of the highest grossing and most watched fights in boxing history.<sup>1</sup>

2. Apart from the gate receipts, hundreds of thousands of boxing fans paid money to see the Fight on pay-per-view (“PPV”) broadcasts, including those offered through Defendants’ internet and media outlets and platforms, such as UFC.com, UFC.tv, and UFC’s smartphone application (the “app”). PPV sales alone are believed to have exceeded \$300 million for the Fight.<sup>2</sup>

3. Reviews of the Fight were generally positive with commentators and fans indicating that it was an exciting sporting event, especially compared to Mayweather’s previous May 2015 fight against Manny Pacquiao, which was universally criticized and panned due to general lack of excitement largely

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<sup>1</sup> Martin Rogers, *Floyd Mayweather beats Conor McGregor with 10th round TKO in 'The Money Fight'*, USA TODAY (Aug. 28, 2017, 12:56 AM), <https://www.usatoday.com/story/sports/boxing/2017/08/26/floyd-mayweather-beats-conor-mcgregor-tko-money-fight/605806001/>. See also, Brian Mazique, *The Estimated Purses for Floyd Mayweather Vs. Conor McGregor Fight Are Staggering*, FORBES (Jun 16, 2017, 2:32 PM), <https://www.forbes.com/sites/brianmazique/2017/06/16/the-estimated-purses-for-floyd-mayweather-vs-conor-mcgregor-fight-are-staggering/#3299add33d00> (estimating Mayweather to earn at least \$100 million, increasing up to four times that amount if the event hits its monetary metrics, and McGregor raking in at least \$30 million, though both fighters signed confidentiality agreements that restrict them from revealing the financial details publicly).

<sup>2</sup> Michael Blaustein, *Mayweather-McGregor was a \$700 million behemoth*, N.Y. POST (Aug. 28, 2017, 12:14 PM), <http://nypost.com/2017/08/28/mayweather-mcgregor-was-a-700m-behemoth/>.

1 resulting from Pacquiao's undisclosed shoulder injury and inability to compete to  
2 his fullest ability.<sup>3</sup>

3 4. Prior to the Fight, Mayweather told the public that he owed them  
4 something "to write that wrong" as a result of the lackluster Pacquaio fight.<sup>4</sup>  
5 Mayweather and McGregor engaged in a promotional tour and other promotional  
6 appearances. Promoters and Defendants marketed the Fight heavily to fans and  
7 PPV customers. All of this added to the hype and excitement the participating  
8 boxers, promoters, broadcasters, and Defendants all aimed to capitalize on  
9 financially.

10 5. While the August 26, 2016 Mayweather – McGregor fight was an  
11 exciting sporting event that millions of sports fans wanted to see, with significant  
12 hype and pent-up demand, a major problem arose prior to the Fight. Consumers,  
13 like Plaintiff, who purchased the PPV Fight from Defendants via UFC, UFC.com,  
14 UFC.tv, the UFC app, and/or other platforms operated by Defendants at the  
15 required price (\$99.99), were unable to actually watch the complete Fight under  
16 the license purchased due to technical difficulties and insufficient bandwidth and  
17 downloading problems, frustrating their PPV transactions and ability to receive  
18 what they paid for.

19 6. As reported in the aftermath of the Fight, thousands of consumers who  
20 purchased the fight through UFC, UFC.com, UFC.tv, the UFC app, and/or other  
21  
22  
23

24 <sup>3</sup> See generally, Mike Downey, *Mayweather vs. McGregor: Worth every penny*, CNN (Aug. 27,  
25 2017, 12:44 PM), <http://www.cnn.com/2017/08/27/opinions/mayweather-mcgregor-opinion-downey/index.html>.

26 <sup>4</sup> Scott Rafferty, *Floyd Mayweather: 'I Feel Like I Owe Fans' for Disappointing Manny*  
27 *Pacquiao Fight*, Rolling Stone (Aug. 16, 2017),  
28 <http://www.rollingstone.com/sports/news/mayweather-vs-mcgregory-owes-boxing-fans-for-pacquiao-fight-w498023>.

1 platforms operated by Defendants were denied the ability to see the entire Fight  
2 broadcast due to widespread “outages” allegedly as a result of the high demand.<sup>5</sup>

3 7. Upon information and belief, the broadcast outages occurred due to  
4 system overload and insufficient bandwidth and download capacity, among other  
5 technical deficiencies, whereby Defendants sold more PPV packages to consumers  
6 in the Class than they knew or should have known their broadcast/download  
7 system could realistically handle and process without experiencing widespread  
8 interference and outages.

9 8. Watching a live sporting event where long, short, unannounced, or  
10 other sporadic outages occur completely ruins the viewing experience and  
11 frustrates the ability of the viewer (and his/her guests) to enjoy the PPV product  
12 purchased and experience it to the fullest and intended extent.

13 9. Every aspect and reasonable interpretation of Defendants’  
14 advertisement and promotion of the PPV Fight was that if consumers paid the \$99  
15 price for the PPV they would receive and be able to view, uninterrupted, without  
16 doubt, the complete and uninterrupted Fight broadcast. Defendants’ inability to  
17 ultimately provide a complete and uninterrupted PPV broadcast of the Fight to the  
18 Class was not due to unforeseen circumstances or an act of nature, but instead  
19 from pure greed – namely, Defendants’ desire to keep selling more and more and  
20 more PPV’s, stretching the bandwidth and download capacity of the system to the  
21  
22

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23 <sup>5</sup> Adi Joseph, *UFC.tv crashed two hours before Mayweather-McGregor, and everyone freaked*  
24 *out*, USA TODAY (Aug. 26, 2017, 9:51 PM), [http://ftw.usatoday.com/2017/08/mayweather-vs-](http://ftw.usatoday.com/2017/08/mayweather-vs-mcgregor-streaming-ufc-tv-ppv-pay-per-view-time-online-watch)  
25 *mcgregor-streaming-ufc-tv-ppv-pay-per-view-time-online-watch*. See also, A.J. Perez, *Struggled*  
26 *to Stream the “The Money Fight”?* *UFC.tv customers urged to contact NeuLion*, MMA Junkie  
27 (Aug. 27, 2017), available at: [http://mmajunkie.com/2017/08/struggled-stream-the-money-fight-](http://mmajunkie.com/2017/08/struggled-stream-the-money-fight-ufc-customers-contact-neulion)  
28 [ufc-customers-contact-neulion](http://mmajunkie.com/2017/08/struggled-stream-the-money-fight-ufc-customers-contact-neulion); Jon Fingas, *Demand for Mayweather-McGregor fight crashed*  
*pay-per-view servers*, Engadget (Aug. 27, 2017), available at:  
<https://www.engadget.com/2017/08/27/mayweather-mcgregor-fight-crashes-ppv-servers/>.

1 brink and beyond, irrespective of the risks they were creating for the Class of  
2 consumers.

3 10. Ultimately the system overloaded and crashed from excessive sales  
4 and downloads. Plaintiff and Class members obtained only sporadic, interrupted  
5 clips, or were unable to view the Fight at all.

6 11. As a result, Plaintiff's contracts for the PPV broadcast were breached.

7 12. Defendants also engaged in deceptive and misleading acts marketing  
8 and selling the PPV on UFC.tv as, *inter alia*, they knew or should have known that  
9 the PPV systems' capacity was exceeded and could not adequately handle the  
10 volume of PPV sales ultimately reached without suffering outages, compromising  
11 the PPV purchases of consumers, yet continued to sell new packages to Class  
12 members in order to maximize their revenues.

13 13. Despite this, Defendants have not rectified the problem and made  
14 Plaintiff and Class members whole by refunding their PPV purchase and providing  
15 other necessary relief such as reimbursement of other amounts spent by class  
16 members in relation to the Fight, such as food, drink and other entertainment  
17 supplies.<sup>6</sup>

18 14. Based on the foregoing, and as further alleged below, this class action  
19 lawsuit seeks damages, restitution, and other relief for persons who paid money for  
20 the PPV of the Fight through UFC's app and/or through UFC.tv. Those consumers,  
21 like Plaintiff, were denied the benefit of their bargain and as a result, damages,

22  
23 <sup>6</sup> See A. J. Perez, *UFC, NeuLion mum on potential refunds for fans unable to stream*  
24 *Mayweather-McGregor fight*, MMA Junkie (Aug. 28, 2017), available at:  
25 <http://mmajunkie.com/2017/08/ufc-neulion-floyd-mayweather-conor-mcgregor-fight-refunds>  
26 ("The UFC and its streaming partner, NeuLion, have yet to address how – and even if – they will  
27 compensate customers who paid \$100 for Saturday's Floyd Mayweather vs. Conor McGregor  
28 fight and were prevented from viewing it due to technical issues. The main event was delayed  
due to what Showtime, the fight's primary broadcaster, described as "scattered outages," but the  
majority of the problems appeared to be with UFC's app that runs on several different platforms  
and not the outages referenced by Showtime.")



1 restitution, and other relief is appropriate and necessary. Because of Defendants'  
2 conduct, described further within, members of the Class were injured and incurred  
3 financial loss while Defendants profited and were unjustly enriched.

#### 4 **PARTIES**

5 15. Plaintiff Cameron Park is an individual who resides in the State of  
6 California. Plaintiff is a "person" as defined by Cal. Bus. & Prof. Code §17201.

7 16. Plaintiff, like members of the Class, paid money to view the PPV  
8 broadcast Mayweather-McGregor fight held on August 26, 2017 via UFC.tv or the  
9 UFC app and suffered the loss of money, financial injury, and damage as a result  
10 of the acts and omissions of Defendants described herein. Had Defendants not  
11 conducted the deceptive and unfair acts alleged herein, and not omitted material  
12 facts regarding system capacities, Plaintiff would not have parted with his money  
13 to watch the Fight purchased from Defendants (and/or their agents), and would  
14 not have been injured.

15 17. The Class, as defined below, consists of Plaintiff and all other  
16 persons who paid money in the State of California to watch the Mayweather-  
17 McGregor fight held August 26, 2017, via UFC, UFC.com, UFC.tv, the UFC app,  
18 and/or other platforms operated by Defendants.

19 18. Defendant Zuffa, LLC ("Zuffa") is an American sports promotion  
20 company specializing in mixed martial arts. It was founded in January 2001 in Las  
21 Vegas, Nevada, by Station Casinos executives Frank Fertitta III and Lorenzo  
22 Fertitta to be the parent entity of the Ultimate Fighting Championship (UFC) after  
23 they purchased it from the Semaphore Entertainment Group. The word "Zuffa" is  
24 an Italian word meaning "fight".

25 19. Defendant UFC Holdings ("UFC Holdings") is the managing  
26 member of Zuffa, LLC. UFC Holdings is a Michigan entity. UFC Holdings is  
27 located at 2960 W. Sahara Avenue, Las Vegas, Nevada, 89102.  
28

20. Zuffa and UFC Holdings own and operate, directly or indirectly, UFC, the UFC.com and UFC.tv websites, and the UFC app for mobile phones and devices. *See*, Terms of Use, *available at*: <http://www.ufc.com/termsOfUse>. Through these websites, apps, and other social media outlets and platforms, PPV packages for the Fight were sold to Plaintiff and the members of the Class.

21. Ultimate Fighting Championship (“UFC”) is owned, operated, or the alter ego of Zuffa and and/or UFC Holdings. On its website (<http://www.ufc.com/discover/ufc>), UFC presents itself to the public as an “organization” owned by Zuffa and further states:

The fastest growing sports organization in the world, the Ultimate Fighting Championship® (UFC®), started in 1993 as a professional mixed martial arts (MMA) organization. UFC has revolutionized the fight business, and today stands as the world's leading MMA promoter, offering the premier series of MMA sports events that have sold out some of the biggest arenas and stadiums across the globe.

The UFC organization follows a rich history and tradition of competitive MMA dating back to the Olympic Games in Athens. About 80 years ago, a Brazilian form of MMA known as Vale Tudo (anything goes) sparked local interest in the sport. Today, the UFC has evolved into an organization where hybrid athletes are required to know various disciplines in order to compete at an elite level in a regulated environment where safety is paramount. UFC athletes are skilled in many forms of martial arts, including karate, jiu-jitsu, boxing, kickboxing, grappling, wrestling, sumo and other combat sports.

Owned and operated by Zuffa, LLC, headquartered in Las Vegas and with offices in London, Toronto and Singapore, UFC produces more than 40 live events annually and is the largest Pay-Per-View event provider in the world, broadcast in over 129 countries and territories, to nearly 800 million TV households worldwide, in 28 different languages. UFC content is also distributed commercially in the United States to bars and restaurants through Joe Hand Promotions, in English throughout Canada via Premium Sports Broadcasting Inc. and in French throughout Quebec via Interbox.

In 2011, the UFC burst into the mainstream with a landmark seven-year broadcast agreement with FOX Sports Media Group. The agreement includes four live events broadcast on the FOX network annually, with additional fight cards and thousands of hours of programming broadcast on FOX properties FOX Sports 1 and FOX Sports 2. This also includes the longest-running sports reality show on television, The Ultimate Fighter®, which airs on FOX Sports 1 in the United States.

1 The UFC also connects with tens of millions of fans through its  
2 website, UFC.com, as well as social media sites Facebook, Instagram  
3 and Twitter. UFC President Dana White is considered one of the most  
4 accessible and followed executives in sports, with over two million  
5 followers on Twitter.

6 In 2014, UFC launched UFC FIGHT PASS™, a digital subscription  
7 service with exclusive live events, thousands of fights on-demand and  
8 original content. The UFC organization also licenses over 100 UFC  
9 GYM® locations

10 The UFC organization also licenses over 100 UFC GYM® locations,  
11 and owns UFC.TV® (offering live event broadcasts and video on-  
12 demand around the world), UFC FIT® (an in-home fitness and  
13 nutrition program), UFC Magazine, and has a videogame franchise  
14 with EA SPORTS, UFC Fight Club®, UFC Fan Expo®, UFC branded  
15 apparel, DVDs and Blu-rays and Topps Trading Cards. For more  
16 information, visit UFC.com and follow UFC at Facebook.com/UFC,  
17 Twitter and Instagram: @UFC

18 22. On the same website UFC also states: “The UFC also holds the  
19 distinction as the largest live Pay-Per-View event provider in the world.”

20 23. On the UFC.com website is a portal for consumers to access  
21 UFC.com and purchase the PPV of the Fight. *See*, <https://www.ufc.tv/events>.

22 24. UFC.com, UFC.tv, and the UFC app are owned, operated, and/or the  
23 alter egos of Zuffa and/or UFC Holdings.

24 25. UFC, UFC.com, UFC.tv, and the UFC app are controlled by Zuffa  
25 and/or UFC Holdings.

26 26. The officers, members, and/or operators of Zuffa, UFC Holdings, and  
27 UFC are common and upon information and belief include, but are not limited to  
28 “UFC President” Dana White and “Executives” Frank Fertitta and Lorenzo  
Fertitta.<sup>7</sup>

27 27. Zuffa, directly or through UFC Holdings, UFC and/or other alter ego  
28 entities it controlled, contracted with NeuLion, Inc. to provide services that allow  
Plaintiff and members of the Class to access and view its content, including the  
PPV of the Fight, via UFC, UFC.com, UFC.tv, the UFC app and/or other

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<sup>7</sup> *See* <http://www.ufc.com/discover/ufc/index>. *See also* <http://www.ufc.com/news/UFC-names-Andrew-Schleimer-Chief-Financial-Officer?id=>



platforms operated by Defendants. *See*, UFC Terms of Use, *available at*: <http://www.ufc.com/termsOfUse> (“We have contracted with NeuLion, Inc. to provide services that provide You (the subscriber who pays a fee) with the ability to access and view our content.”).

28. Defendant NeuLion, Inc. (“NeuLion”) a technology product and service provider specializing in the broadcasting, distribution, and monetization of live and on-demand digital video content to Internet-enabled devices. NeuLion is located at 1600 Old Country Road, Plainview, NY 11803. NeuLion live streamed the Mayweather vs. McGregor fight for several global rights holders worldwide, including UFC®, Sky Sports, Sky New Zealand, and Eleven Sports Network.

29. NeuLion promoted the Fight as “The Biggest Fight in Combat Sports History” on its website. *See generally*, <http://www.neulion.com/>.

30. As reported on NeuLion’s website on August 23, 2017 ([http://www.neulion.com/ViewArticle.dbml?DB\\_OEM\\_ID=30000&ATCLID=211662790](http://www.neulion.com/ViewArticle.dbml?DB_OEM_ID=30000&ATCLID=211662790)):

*NeuLion to Live Stream Mayweather vs. McGregor Fight for Several Global Rights Holders, Including UFC®, Sky Sports, Sky New Zealand and Eleven Sports Network*

PLAINVIEW, NY -- August 23, 2017 - NeuLion, Inc. (TSX: NLN), a leading technology product and service provider specializing in the broadcasting, distribution and monetization of live and on-demand digital video content to Internet-enabled devices, today announced that it will live stream the Mayweather vs. McGregor fight for several global rights holders, worldwide, including UFC®, Sky Sports, Sky New Zealand and Eleven Sports Network. Each of these global rights holders will be using the NeuLion Digital Platform for the live streaming of the four-fight SHOWTIME PPV event, taking place Saturday, Aug. 26 at T-Mobile Arena in Las Vegas.

This once-in-a-lifetime event brings together the worlds of boxing and MMA and has captured the imagination of sports fans throughout the globe from the initial announcement of the world tour and now leading up to fight night.

The NeuLion Digital Platform will be handling the authentication and purchasing of the Pay-Per-View (PPV) as fans visit each of the four services, including UFC.TV, Sky Sports Box Office, Sky Fan Pass and the Eleven Sports Network’s OTT service. NeuLion will also ensure that each of these services delivers the fight into each of the rights holders’ respective licensed territories.

1 “These partners recognize the value of our depth of global experience  
2 and continued focus on delivering outstanding quality,” said Roy  
3 Reichbach, President and CEO of NeuLion. “To be working with four  
4 fantastic NeuLion partners for the streaming, purchasing, and fan  
5 experience for one of the largest online events of the year, is very  
6 exciting for us.”

7 NeuLion has also designed and developed the consumer experience  
8 that UFC, Sky Sports, Sky New Zealand and Eleven Sports Network  
9 fans will interact with as they watch the live streaming of the fight on  
10 web, mobile, tablet and other connected devices.

11 UFC, the world's premier mixed martial arts organization, is offering  
12 the fight to fans through UFC.TV, Sky Sports is offering the live fight  
13 as part of their Sky Box Office service, Sky New Zealand is offering  
14 the fight on Sky Fan Pass and Eleven Sports Network is offering the  
15 fight through their digital service. NeuLion will be delivering and  
16 monitoring the live event from its technical operations centers located  
17 in New York and London.

#### 18 About NeuLion

19 NeuLion, Inc. (TSX: NLN) offers solutions that power the highest  
20 quality digital experiences for live and on-demand content in up to 4K  
21 on any device. Through its end-to-end technology platform, NeuLion  
22 enables digital video management, distribution and monetization for  
23 content owners worldwide including the NFL, NBA, World Surf  
24 League, Univision Deportes, Euroleague Basketball and  
25 others. NeuLion powers the entire video ecosystem for content  
26 owners and rights holders, consumer electronic companies, and third  
27 party video integrators through its MainConcept business. NeuLion's  
28 robust consumer electronics licensing business enables its customers  
like Sony, LG, Samsung and others to stream secure, high-quality  
video seamlessly across their consumer devices. NeuLion is  
headquartered in Plainview, NY. For more information about  
NeuLion, visit [www.NeuLion.com](http://www.NeuLion.com).

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31. Plaintiff is ignorant of the true names, capacities, relationships and  
extent of participation in the conduct herein alleged of the defendants sued herein  
as DOES 1 through 100, inclusive, but on information and belief allege that said  
Defendants are in some manner legally responsible for the unlawful actions,  
policies, and practices alleged herein, and therefore sues such defendants by such  
fictitious names. Plaintiff is informed and believes, and thereon allege, that each

1 Defendant named herein was the agent of the other, and the agent of all  
2 Defendants. Plaintiff is further informed and believes, and thereon alleges, that  
3 each Defendant was acting within the course and scope of said agency at all  
4 relevant times herein, for the benefit of themselves, each other, and the other  
5 Defendants, and that each Defendant's actions as alleged herein were authorized  
6 and ratified by the other Defendants. Once the identities of DOES 1 through 100  
7 become known, Plaintiff will amend this complaint to describe and identify them  
8 in greater detail.

### 9 JURISDICTION AND VENUE

10 32. Jurisdiction is proper under 28 U.S.C. §1332(d)(2) because this is a  
11 class action where the parties are diverse. Plaintiff, a resident of the State of  
12 California, seeks relief on behalf of a California class, which will result in at least  
13 one Class member belonging to a different state than that of Defendants.  
14 Defendant Zuffa and UFC Holdings are residents of Las Vegas, Nevada.  
15 Defendant NeuLion is a resident of the state of New York that specifically entered  
16 the state of Nevada to broadcast and distribute the PPV of the Fight, which took  
17 place at the T-Mobile Arena, 3780 S Las Vegas Blvd., Las Vegas, Nevada 89158,  
18 to Plaintiff and the Class. In addition, the matter in controversy exceeds  
19 \$5,000,000 exclusive of interest of costs. Therefore, both diversity jurisdiction and  
20 the damages threshold under the Class Action Fairness Act of 2005 ("CAFA") are  
21 present, and this Court has jurisdiction.

22 33. Venue is proper in this District pursuant to 28 U.S.C. § 1391 for at  
23 least the following reasons: (i) Defendant Zuffa and UFC Holdings are residents  
24 of Las Vegas, Nevada; (ii) the Fight occurred within this judicial district at the T-  
25 Mobile Arena, and the PPV broadcast at issue emanated from that site; (iii)  
26 NeuLion entered the state of Nevada to participate in the broadcast and  
27 distribution of the PPV of the Fight at the T-Mobile arena to Plaintiff and the  
28

1 Class; (iv) UFC, UFC.com, UFC.tv and the UFC app are operated in and from  
2 Nevada.

### 3 **FACTUAL ALLEGATIONS**

4 34. At all times relevant, Plaintiff has been an individual residing within  
5 the State of California and City of Los Angeles.

6 35. At all times relevant Defendants, and each of them, conducted  
7 business nationwide, including in the States of California and Nevada, including  
8 that related to PPV sales of the Fight broadcast.

9 36. Plaintiff and other Class members paid money to watch the Fight on  
10 PPV, after months of hype, promotional appearances, and advertisements by  
11 Defendants. The Fight was one of the highest priced events of any kind sold in  
12 pay-per-view history. The Fight was promoted as “The Biggest Fight in Combat  
13 Sports History” and “The Money Fight.”

14 37. Three days, prior to the Fight, on August 23, 2017, Plaintiff paid \$99  
15 to UFC to purchase the PPV of the Fight. Plaintiff’s receipt stated: “Fight  
16 Pass,null,Mayweather vs McGregor,partyId:1813935,orderId:3802076”. In doing  
17 so, Plaintiff entered into a contract to receive the PPV broadcast in exchange for  
18 the payment made. Plaintiff fulfilled his end of the bargain, and otherwise fulfilled  
19 all conditions precedent, by paying the \$99 charge, as did all other Class  
20 members.

21 38. In anticipation of the Fight and in reliance on the contractual  
22 promises made by Defendants, Plaintiff expended valuable time and money (on  
23 food, beverages, and the like) to host his friends at his home for a private viewing  
24 party.

25 39. Defendants sought to sell a record number of PPV packages and  
26 maximize revenue. PPV sales continued through the start of the opening round.

27 40. Upon information and belief, the fight was postponed for some time  
28 in order to process still incoming PPV orders.

41. Defendants were ill-equipped to provide the number of PPV broadcasts that were sold to all consumers who purchased them.

42. As a result of system overloads and other technical problems, Plaintiff and many other Class members who purchased the PPV, were unable to view the entire PPV broadcast without interruption. As *USA Today* reported, “The main event was delayed due to what Showtime, the fight’s primary broadcaster, described as ‘scattered outages,’ but the majority of the problems appeared to be with UFC’s app that runs on several different platforms and not the outages referenced by Showtime.”<sup>8</sup>

43. “UFC Fight Pass”, the digital streaming service of UFC (and also controlled and operated by Zuffa, UFC Holdings and/or UFC), sent a tweet on Twitter, on August 26, 2017 at 6:26 PM stating: “Due to overwhelming traffic you may be experiencing log in issues. This will be resolved shortly.”

44. Later at 9:08 PM on August 28, 2017, UFC Fight Pass tweeted: “Apologies for any tech difficulties logging onto <http://UFC.TV>. Please find an alternative provider here: <http://s.sho.com/2izXNhh>.”

45. Thousands of consumers who purchased the fight through UFC.com, UFC.tv, UFC’s app, and/or other platforms and media outlets operated by

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<sup>8</sup> A. J. Perez, *UFC ‘disappointed’ by technical difficulties for Mayweather-McGregor; no word on refunds*, USA TODAY (Aug. 28, 2017, 8:50 PM), <https://www.usatoday.com/story/sports/boxing/2017/08/28/ufc-floyd-mayweather-conor-mcgregor-fight-technical-difficulties/610713001/>. See also, Jon Fingas, *Demand for Mayweather-McGregor fight crashes pay-per-view servers*, Engadget (Aug. 27, 2017), available at: <https://www.engadget.com/2017/08/27/mayweather-mcgregor-fight-crashes-ppv-servers/> (“Numerous reports have revealed that servers across the US crashed or buckled under demand for the fight, creating outages serious enough that organizers delayed the fight to make sure people could tune in. Mayweather himself said that pay-per-view servers in California and Florida crashed, while Showtime and UFC failed to load, ran into login trouble and otherwise couldn’t keep up with interest.”); Michael Blaustein, *Mayweather-McGregor was a \$700 million behemoth*, N.Y. POST (Aug. 28, 2017, 12:14 PM), <http://nypost.com/2017/08/28/mayweather-mcgregor-was-a-700m-behemoth/> (“In the end, UFC Fight Pass, the promotion’s online streaming service, was so popular on fight night that its servers in California and Florida crashed.”).



1 Defendants were denied the ability to see the entire Fight broadcast uninterrupted  
2 due to widespread “outages.” *See* n.5, *supra*. The problem was widespread and not  
3 limited or unique to Plaintiff.

4 46. Defendants’ failure to deliver the complete and uninterrupted PPV  
5 broadcast to all consumers who purchased it, including Plaintiff and the Class,  
6 caused them harm, injury, damage, and out-of-pocket loss.

7 47. By failure to deliver the complete and uninterrupted PPV broadcast  
8 of the Fight to all consumers who purchased it, Defendants breached contracts  
9 with Plaintiff and members of the Class. In addition, Defendants engaged in  
10 deceptive and misleading conduct, violating various consumer protection laws  
11 including, but not limited to, the California Legal Remedies Act (“CLRA”), Cal.  
12 Civ. Code § 1780 *et seq.*, and Unfair Competition Law (“UCL”), Cal. Bus & Prof.  
13 Code § 17200 *et seq.*

14 48. Plaintiff and the Class were denied the benefit of their bargain  
15 because they did not receive the complete and uninterrupted PPV broadcast of the  
16 Fight after paying for it.

17 49. Plaintiff, like other reasonable consumers in the Class who purchased  
18 the PPV, placed value on the broadcast of the Fight and expected to have an  
19 enjoyable night valued at more than the \$99 PPV price, and at least no less than  
20 the \$99 price. In addition, Plaintiff, like other Class members, invested in food,  
21 drinks, and the like in order to best enjoy the evening and entertain guests who  
22 were invited to their homes. This type of activity is both expected, reasonably  
23 foreseeable, and encouraged by Defendants when marketing the PPV of the Fight  
24 in the manner they did.

25 50. Defendants knew or should have known of the restrictions and  
26 limitations on their broadcast and download capacity and not sold an excessive  
27 number of PPV packages that caused the system to crash and experience outages  
28 to the detriment of Plaintiff and the Class.

1        51. By failing to disclose to consumers in the Class that excessive  
2 number of PPV packages would be sold, Defendants denied Plaintiff an important  
3 opportunity to view the Fight through alternative, more reliable means.

4        52. Plaintiff and the Class, paying a premium price for the PPV (one of  
5 the highest prices ever), reasonably relied on Defendants to provide a complete  
6 and uninterrupted broadcast of the entire Fight programming via PPV.  
7 Defendants failed to do this. Defendants knew or should have reasonably  
8 foreseen that outages would occur once of the number of PPV purchasers  
9 exceeded a certain capacity threshold that made outages certain, foreseeable, or at  
10 least significantly more likely. Defendants' intentional or reckless disregard for  
11 this, so to maximize their profits through continued sales, was unfair and  
12 deceptive. Given the nature of a live, unique sporting event like the Fight,  
13 Defendants knew or should have known that if outages occurred due to system  
14 overloads, the PPV broadcast would be compromised, interrupted portions of the  
15 live broadcast could not be recreated or reshowed for those that missed it, and  
16 Plaintiff and the Class would be injured.

17        53. Sports fans, like those in the Class are deprived of value and harmed  
18 when they miss live broadcast events, learn the outcome of a sporting event  
19 without experiencing it live, learn scores, or view replays.

20        54. Through their conduct, Defendants improperly and deceptively  
21 induced thousands of other consumers in the Class to purchase the Fight, and  
22 generated hundreds of millions of dollars and revenues in ill-gotten gains due to  
23 their deception such that Defendants were unjustly enriched.

24        55. Given their superior and exclusive knowledge about the system  
25 capacity and shortfalls, as well as PPV sales levels, Defendants had a duty to tell  
26 consumers like Plaintiff the risks of outages presented, and at a reasonable point,  
27 to suspend further PPV sales to best protect the interests of consumers that had  
28 already made the investment. Instead, Defendants kept selling more and more

1 PPV packages up and through the opening bell, despite knowingly exceeding  
2 system capacity.

3 56. Defendants' conduct and omissions described herein, *inter alia*: (a)  
4 breached contracts with Plaintiff and the Class; (b) constitute unlawful, unfair, and  
5 deceptive, and fraudulent conduct under California's Unfair Competition Law,  
6 Business & Professions Code §17200, *et seq.* and Consumer Legal Remedies Act.

### 7 CLASS ALLEGATIONS

8 57. Plaintiff brings this action on his own behalf and on behalf of all  
9 others similarly situated (the "Class").

10 58. Plaintiff represents, and is a member of the Class, defined as follows:  
11 "All persons in the State of California that paid money to watch the Fight on pay-  
12 per-view, purchased through UFC, UFC.com, UFC.tv, the UFC app, and/or other  
13 platform operated by Defendants."

14 59. Excluded from the Class are: (a) any officers, directors or employees  
15 of Defendants; (b) any judge assigned to hear this case (or spouse or family  
16 member of any assigned judge); (c) any employee of the Court; and (d) any juror  
17 selected to hear this case. Plaintiff reserves the right to modify or amend the  
18 definition of the proposed Class before the Court determines whether certification  
19 is appropriate.

20 60. All requisite elements for class certification under Fed. R. Civ. P.  
21 23(a), 23(b)(1), 23(b)(2), and 23(b)(3) are satisfied.

22 61. Plaintiff does not know the exact number of persons in the Class, but  
23 given the reported PPV revenues from the Fight and California's population,  
24 believes them to be in the several thousands, making joinder of all these actions  
25 impracticable.

26 62. The identity of the individual members is ascertainable through  
27 Defendants' and/or Defendants' agents' records or by public notice.  
28

1           63. There is a well-defined community of interest in the questions of law  
2 and fact involved affecting the members of the Class. The questions of law and  
3 fact common to the Class predominates over questions affecting only individual  
4 Class members, and include, but are not limited to, the following:

- 5           a. Whether Defendants' practices are "unfair" as defined by  
6 California Business and Professions Code § 17200;
- 7           b. Whether Defendants' practices are "illegal" as defined by  
8 California Business and Professions Code § 17200;
- 9           c. Whether Defendants' practices are "fraudulent" as defined by  
10 California Business and Professions Code § 17200;
- 11           d. Whether such practice violates California Business and  
12 Professions Code § 17200;
- 13           e. Whether Defendants breached Class members' contracts for the  
14 PPV;
- 15           f. Whether Defendants violated the California Legal Remedies  
16 Act, California Civil Code § 1770 *et seq.*;
- 17           g. Whether Defendants knew or should have known of system  
18 capacities and sold excessive PPV packages.

19           64. Plaintiff will fairly and adequately protect the interest of the Class.

20           65. Plaintiff has retained the undersigned counsel who are experienced in  
21 consumer class action litigation and are competent to represent the Class.

22           66. Plaintiff's claims are typical of the claims of the Class which all arise  
23 from the same operative facts involving Defendants' practices.

24           67. A class action is a superior method for the fair and efficient  
25 adjudication of this controversy.

26           68. Classwide damages are essential to induce Defendants to comply  
27 with the laws as alleged in the Complaint.

69. Class members are unlikely to prosecute such claims on an individual basis since the individual damages are small. Management of these claims is likely to present significantly fewer difficulties than those presented in many class claims, *e.g.*, securities fraud.

70. Defendants have acted on grounds generally applicable to the Class thereby making appropriate final declaratory relief with respect to the Class as a whole.

71. Members of the Class are likely to be unaware of their rights.

72. Plaintiff contemplates providing notice to the putative Class members by direct mail in the form of a postcard, via email, and via publication.

73. Plaintiff requests certification of a hybrid class combining the elements of Fed. R. Civ. P. 23(b)(3) for monetary damages and Fed. R. Civ. P. 23(b)(1) and/or 23(b)(2) for equitable relief.

## INTENT

74. All acts of Defendants described within were done intentionally and purposefully with a goal towards maximizing their profits and gain at the expense of Plaintiff and the Class.

**FIRST CAUSE OF ACTION**  
**Breach of Contract**

75. Plaintiff incorporated by reference each allegation set forth above.

76. Plaintiff and each Class member entered into a contract with Defendants and/or their agents.

77. Plaintiff and each Class member paid the common price demanded (approximately \$99), in exchange for a license to view the PPV of the Fight.

78. Plaintiff and each Class member paid the demanded price in exchange for a fully operational and complete PPV broadcast of the Fight, not a partial, intermittent, delayed, or otherwise incomplete broadcast.



1           79. Defendants failed to provide a complete broadcast of the Fight to  
2 Plaintiff and other members of the Class, depriving them of the benefit of their  
3 bargain.

4           80. Defendants breached their contracts with Plaintiff, causing injury,  
5 harm and financial loss, as described further herein.

6           81. As a result of the foregoing, damages and other appropriate relief are  
7 due to Plaintiff and the Class, including refunds of the amounts paid for the PPV.

8                           **SECOND CAUSE OF ACTION**  
9                           **Violation of the California Legal Remedies Act**  
                              **Cal. Civ. Code § 1750, *et seq.***

10           82. Plaintiff incorporates by reference each allegation set forth above.

11           83. This cause of action is brought pursuant to the Consumers Legal  
12 Remedies Act, California Civil Code § 1750, *et seq.* (the “CLRA”) because  
13 Defendants’ actions and conduct described herein constitute transactions that have  
14 resulted in the sale or lease of goods or services to consumers.

15           84. Plaintiff and each member of the Class are consumers as defined by  
16 California Civil Code § 1761(d).

17           85. PPV packages purchased are goods and services within the meaning  
18 of Civil Code § 1761(a). Federal and state statutes classify paid cable broadcasts  
19 as a “programming service.” *See, e.g.*, 47 U.S.C.A. § 522 and (6); 47 C.F.R. §  
20 76.5 (ff); Cal. Pub. Util. Code § 5830 (c); Cal. Bus. & Prof. Code § 22770; Cal.  
21 Gov’t Code § 53088.6.

22           86. Defendants sold PPV packages of the Fight to Plaintiff and the Class  
23 when they knew or should have known that their broadcast systems had a finite  
24 capacity and that selling excessive packages would cause the system to crash and  
25 overload so that Class members would be periodically shut out of the broadcast  
26 and denied the ability to see the complete broadcast of the Fight.  
27  
28

1           87. Instead of being upfront with consumers about its underpowered  
2 service, Defendants caused a likelihood of confusion and misunderstanding as to  
3 the source and quality of the HD video consumers would see on fight night.  
4 Defendants misrepresented the quality and grade of video consumers would see  
5 using its platforms and app, and knowingly failed to disclose that their system was  
6 defective with respect to the amount of bandwidth available and that Defendants'  
7 service would materially fail to conform to the quality of HD video Defendants  
8 promised.

9           88. Despite the foregoing, PPV packages continued to be sold up until  
10 the opening bell, overloading the system and causing outages. In turn, Plaintiff  
11 and the Class could not view the entire Fight broadcast and were denied the  
12 benefit of their bargain.

13           89. Defendants violated the CLRA in at least the following respects:

- 14           a. in violation of § 1770(a)(5) and through common omissions  
15 of material fact, Defendants represented that the viewerships  
16 sold for the Fight (the PPV) had characteristics, ingredients,  
17 and benefits which they do not have;
- 18           b. in violation of § 1770(a)(7) and through common omissions of  
19 material fact, Defendants represented that the viewerships sold  
20 for the Fight (the PPV) were of a particular standard, quality  
21 or grade when they were of another;
- 22           c. in violation of §1770(a)(9) and through common omissions of  
23 material fact, Defendants advertised the PPV viewerships for  
24 the Fight with intent not to sell them as advertised; and
- 25           d. in violation of §1770(a)(16) and through common omissions  
26 of material fact, Defendants represented that the PPV  
27 viewerships for the Fight were supplied in accordance with  
28 previous representations when they were not.

1        90. Defendants knew, or should have known, that its omissions of facts  
 2 about system capacities and overload risks were material to reasonable consumers  
 3 like those in the Class. Had Class members been advised that the Defendants'  
 4 systems risked overloading and crashing they would have taken different action,  
 5 such as watching the Fight through alternative means available; not purchasing the  
 6 Fight for the high price charged; or demanding in advance that Defendant limit  
 7 total PPV sales to a manageable number that would not cause the system to  
 8 overload.

9        91. Damages on this Count alone are not sought at this time, only  
 10 injunctive and declaratory relief and all other relief available at law or equity.

11        92. Plaintiff has complied with Cal. Civ. Code § 1782(a) by notifying  
 12 Defendants in writing, by certified mail, of the violations alleged herein and  
 13 demanded that Defendants remedy those violations. If Defendants fail to rectify  
 14 or agree to rectify the problems detailed above and give notice to all affected  
 15 consumers within 30 days of the date of written notice pursuant to Cal. Civ. Code  
 16 § 1782, Plaintiff will amend this complaint to add claims for actual, punitive, and  
 17 statutory damages pursuant to the CLRA

18        93. Based on the foregoing, Plaintiff and all Class members are entitled  
 19 to declaratory relief, disgorgement, and restitution of Defendants' revenues  
 20 associated with their conduct, or such portion of those revenues as the Court may  
 21 find equitable.

22                                    **THIRD CAUSE OF ACTION**  
 23                                    **Violation of the Unfair Competition Law**  
                                      **Cal. Bus. & Prof. Code § 17200 *et seq.***

24        94. Plaintiff incorporates by reference all of the above paragraphs of this  
 25 Complaint as though fully stated herein.

26        95. Actions for relief under the Unfair Competition Law, Bus & Prof.  
 27 Code §17200 *et seq.* ("UCL") may be based on any business act or practice that  
 28

1 falls within the broad definition of the UCL. Such violations of the UCL occur as  
2 a result of unlawful, unfair or fraudulent business acts and practices.

3 96. The UCL prohibits any “unfair...business act or practice.”

4 97. In order to satisfy the “unfair” prong of the UCL, a consumer must  
5 show that the injury: (1) is substantial; (2) is not outweighed by any  
6 countervailing benefits to consumers or competition; and, (3) is not one that  
7 consumers themselves could reasonably have avoided.

8 98. Defendants’ acts, omissions, misrepresentations, and practices as  
9 alleged herein constitute “unfair” business acts and practices within the meaning  
10 of the UCL in that its conduct is substantially injurious to consumers, offends  
11 public policy, and is immoral, unethical, oppressive, and unscrupulous as the  
12 gravity of the conduct outweighs any alleged benefits attributable to such conduct.  
13 There were reasonably available alternatives to further Defendants’ legitimate  
14 business interests other than the conduct described herein.

15 99. Here, Defendants’ conduct has caused injury to Plaintiff and  
16 members of the Class. Plaintiff and members of the Class have suffered injury in  
17 fact due to Defendants’ unilateral decision to suppress and withhold highly  
18 material information about their PPV broadcast capacity so as to induce  
19 consumers to purchase the Fight. Thus, Defendants’ conduct has caused  
20 substantial injury to Plaintiff and members of the Class.

21 100. Moreover, Defendants’ conduct as alleged herein solely benefits  
22 Defendants while providing no benefit of any kind to any consumer. Such  
23 deception utilized by Defendants convinced Plaintiff and members of the Class  
24 that the money paid for the PPV of the Fight was reasonable fair market value,  
25 when in fact Defendants knew that they were selling an inferior product. Thus, the  
26 injury suffered by Plaintiff and the members of the Class is not outweighed by any  
27 countervailing benefits to consumers.

1        101. Finally, the injury suffered by Plaintiff and members of the Class is  
2 not an injury that these consumers could reasonably have avoided. After  
3 Defendants falsely represented, withheld, and suppressed information pertaining  
4 to the Fight and limited broadcast/download capacity, Defendants continued to  
5 encourage consumers to purchase the Fight for the high PPV price charged. These  
6 consumers suffered injury in fact due to Defendants' charging of high rates, for  
7 such an inferior product, which was rendered inferior by Defendants' own  
8 material omissions. As such, Defendants took advantage of their position of  
9 perceived power and exclusive knowledge in order to deceive Plaintiff and the  
10 Class members to purchase the PPV of the Fight in such high quantities.  
11 Therefore, the injury suffered by Plaintiff and members of the Class is not an  
12 injury which these consumers could reasonably have avoided. Plaintiff reserves  
13 the right to allege further conduct which constitutes other unfair business acts or  
14 practices. Such conduct is ongoing and continues to this date.

15        102. Based on the foregoing, Defendant's conduct has violated the  
16 "unfair" prong of California Business & Professions Code § 17200.

17        103. California Business & Professions Code § 17200 also prohibits any  
18 "fraudulent...business act or practice."

19        104. In order to prevail under the "fraudulent" prong of the UCL, a  
20 consumer must allege that the fraudulent business practice was likely to deceive  
21 members of the public. The test for "fraud" as contemplated by the UCL is  
22 whether the public is likely to be deceived. Unlike common law fraud, a § 17200  
23 violation can be established even if no one was actually deceived, relied upon the  
24 fraudulent practice, or sustained any damage.

25        105. Here, not only were Plaintiff and the Class members likely to be  
26 deceived, but these consumers were actually deceived by Defendants. Such  
27 deception is evidenced by the fact that Defendants failed to disclose their PPV  
28 broadcast/download capacity limitations, a fact that would have been material to



1 any reasonably minded consumer, including Plaintiff, in their determination of  
2 whether to purchase the PPV of the Fight on Defendants' platforms, and at what  
3 price. Plaintiff's reliance upon Defendants' deceptive omissions is reasonable due  
4 to the unequal bargaining powers and knowledge of Defendants and Plaintiff. For  
5 the same reason, it is likely that Defendants' fraudulent business practice would  
6 deceive other members of the public.

7 106. Based on the foregoing, Defendants' conduct has violated the  
8 "fraudulent" prong of California Business & Professions Code § 17200.

9 107. California Business and Professions Code § 17200, *et seq.* also  
10 prohibits "any unlawful...business act or practice."

11 108. As explained above and below with respect to the CLRA claim,  
12 Defendants deceived Plaintiff and other Class members by actively concealing the  
13 PPV broadcast/download capacity limitations, which caused the system to  
14 overload and crash, and rendered the complete PPV broadcast inaccessible to  
15 Plaintiff and the Class.

16 109. These omissions by Defendants are therefore an "unlawful" business  
17 practice or act under Business and Professions Code §17200, *et seq.*

18 110. Defendants' systematic and widespread breach of contract is also an  
19 unlawful business practice.

20 111. Every aspect and reasonable interpretation of Defendants'  
21 advertisement and promotion of the PPV of the Fight was that if consumers paid  
22 the \$99 price for the PPV they would receive and be able to view, uninterrupted,  
23 without doubt, the complete Fight broadcast. Defendants' inability to ultimately  
24 provide the Class a complete and uninterrupted PPV broadcast of the Fight was  
25 not due to unforeseen circumstances or an act of nature, but instead from greed –  
26 namely, Defendants' desire to keep selling more and more and more PPV's,  
27 stretching the download capacity of the system to the brink and beyond, pushing  
28

1 revenue to record levels, irrespective of the risks they were creating insofar as  
2 being unable to deliver what they sold to the Class.

3 112. Defendants used false advertising, marketing, and misrepresentations  
4 to induce Plaintiff and Class members to purchase the PPV broadcast of the Fight.  
5 Had Defendants not falsely advertised, marketed, or misrepresented the ability to  
6 deliver the PPV broadcast of the Fight, Plaintiff and Class members would not  
7 have purchased the Fight on Defendants' platforms. Defendants' conduct,  
8 therefore, caused and continues to cause economic harm to Plaintiff and Class  
9 members.

10 **FOURTH CAUSE OF ACTION**  
11 **Money Had and Received**

12 113. Plaintiff incorporates by reference all of the above paragraphs of this  
13 Complaint as though fully stated herein.

14 114. Through the above described acts and conduct, Defendants received  
15 money, directly or indirectly, from Plaintiff and the Class which in equity and  
16 good conscious they cannot and should not retain.

17 115. Through the above described acts and conduct, Defendants have been  
18 unjustly enriched at the expense of Plaintiff and the Class.

19 116. Defendants' continued retention of these sums is unjust.

20 117. Based on the foregoing, Defendants should be required to disgorge  
21 all such profits, and provide restitution and/or damages as may be available at law  
22 or equity.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff and the Class members pray for judgment as  
25 follows:

26 A. Certifying the Class as requested herein pursuant to Fed. R. Civ. P.  
27 23(a), 23(b)(9), 23(b)(2), and 23(b)(3), appointing Plaintiff as the Class  
28 representative and the undersigned counsel as Class counsel;

- 1 B. Restitution of the funds obtained by Defendants from the Class,  
2 directly or indirectly;  
3 C. Disgorgement of the funds obtained by Defendants from the Class,  
4 directly or indirectly;  
5 D. Any and all damages on the breach of contract claim and any other  
6 claim where such relief is permitted by law;  
7 E. All reasonable and necessary attorneys' fees and costs provided by  
8 statute, common law, equity, or the Court's inherent power;  
9 F. For equitable and declaratory relief; and,  
10 G. Any and all other relief that this Court deems just and proper at law or  
11 equity.

12  
13 Respectfully submitted,

14 LIPSON, NEILSON, COLE, SELTZER &  
15 GARIN, P.C.

16 Dated: August 29, 2017

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